

Notice of Allowability

Application No.

10/796,787

Examiner

Patricia M. Bianco

Applicant(s)

BURBANK ET AL.

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to After Final Amendment filed 6/26/06.
2. ☒ The allowed claim(s) is/are 17-22 and 26.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Claims 24 and 25 have been cancelled.

Response to Amendment

The After Final Amendment filed 06/26/2006 has been entered. Claim 19 has been amended and claim 23 has been cancelled as Applicant has directed in the After Final Amendment.

To ensure a clear record of prosecution history, claims 24 and 25 have been expressly cancelled by way of examiner's amendment (see above). In the Final Rejection, claims 19, 24, and 25 were rejected under 35 U.S.C. § 112, second paragraph and claims 23-25 were rejected under the doctrine of obviousness-type double patenting. In the After Final Amendment, claims 17-22 and 26 were reproduced in the attached claim sheets, wherein claim 19 was amended and claim 23 expressly cancelled in the listing of the claims (as noted by the words "(amended)" and "(cancelled)" notations after the respective claim numbers. In the Remarks section of the After Final Amendment on page 5, Applicant states the lack of antecedent basis is cured by the current amendment and that the claims rejected for double patenting are

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hereby cancelled. Since claims 24 and 25 were not reproduced in the attached claim sheets, and were neither expressly amended or cancelled (as should have been noted by either word “(amended)” and “(cancelled)” next to each claim number), they have been cancelled by the examiner based upon the statement “***the claims rejected for double patenting are hereby cancelled***” in the Remarks section.

Allowable Subject Matter

Claims 17-22 and 26 are allowed.

The following is an examiner's statement of reasons for allowance: The subject matter of the independent claims could either not be found or was not suggested in the prior art of record. The subject matter not found was an in-line sensor region, said region being defined by an expanded portion of a fluid pathway that has substantially flattened walls defined by two flexible sheets, and wherein between the two flexible sheets forming a portion of a fluid circuit or pathway defined by a pattern of seals and a sensor physically contacting a non-wetted surface of the expanded portion of the sensor region in combination with the other elements (or steps) in the claims. The prior art of record does not teach sensor regions connected to the external fluid circuit.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia M. Bianco whose telephone number is (571) 272-4940. The examiner can normally be reached on Monday to Friday 9:00-6:30, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

July 22nd, 2006

Patricia M Bianco
Primary Examiner
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PATRICIA BIANCO
PRIMARY EXAMINER